

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



August 21, 2003

Agenda ID# _____
Alternate to Agenda ID# 2481
Ratesetting

TO: PARTIES OF RECORD IN APPLICATION 98-07-003.

Enclosed is the Proposed Alternate Draft Decision of Commissioner Brown to the Proposed Decision of Administrative Law Judge (ALJ) Barnett.

When the Commission acts on the draft or alternate decision, it may adopt all or part of it as written, amend or modify it, or set aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Public Utilities Code Section 311(e) requires that an alternate to a draft decision be served on all parties, and be subject to public review and comment prior to a vote of the Commission. Rule 77.6(d) provides that comments on the alternate draft decision be filed at least seven days before the Commission meeting.

Comments on the alternate decision must be filed and served August 28, 2003. Reply comments are due September 2, 2003.

Pursuant to Rule 77.3 comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN

Angela K. Minkin
Chief Administrative Law Judge

AKM:vfw

Attachment

Decision **PROPOSED ALTERNATE DECISION OF COMMISSIONER
BROWN (Mailed 8/21/2003)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company
for Verification, Consolidation, and Approval of
Costs and Revenues in the Transition Revenue
Account.

Application 98-07-003
(Post PX Direct Access
Credits;
Petition to Modify Filed
October 16, 2002)

(Appearances are in Appendix A.)

**DECISION GRANTING SOUTHERN CALIFORNIA
EDISON'S PETITION TO MODIFY DECISION 02-07-032**

Southern California Edison Company (SCE) petitions to modify Decision (D.) 02-07-032 to reflect that the appropriate portion of SCE's Procurement Related Obligation Account (PROACT) balance to collect from Direct Access (DA) customers is \$493 million, rather than \$391 million as adopted in D.02-07-032. This decision denies the petition.

I. Background

On October 2, 2001, the Commission and SCE reached a settlement agreement in Federal District Court Case No. 00-12056RSWL (Mcx) that allows SCE to recover its alleged past procurement cost undercollections as measured by the starting balance in SCE's PROACT. That balance was \$3.577 billion as of August 31, 2001. The settlement agreement was approved by the Federal District Court on October 5, 2001. On January 23, 2002, the

Commission adopted the ratemaking framework of the settlement in Resolution E-3765.

In Application (A.) 98-07-003, SCE proposed to establish a Historical Procurement Charge (HPC), and to adjust the credit that DA customers receive so that DA and bundled service customers would make equivalent contributions to the recovery of SCE's past procurement cost undercollections reflected in the PROACT balance. SCE's proposal was based on the theory that similarly situated bundled service and DA customers contributed in the same manner to the PROACT balance. SCE proposed that the HPC amount, which is only applicable to DA customers, be set at \$496.8 million.

In D.02-07-032, we determined that the amount to be recovered from DA customers through the HPC was the amount SCE paid and was obligated to pay for negative credits.¹ The HPC amount adopted in D.02-07-032 was \$391 million. We noted that:

“SCE, in its comments on the APD, states that the \$391 million calculation ignores several ‘other significant sources of contribution to the PROACT balance by DA customers.’ However, none of the other sources discussed by SCE are delineated on the record, or quantified. SCE or any other party may file a Petition to Modify this order if there is new evidence on this point.” (D.02-07-032 at p. 21.)

SCE asserts that it filed this petition to modify D.02-07-032 because it believes that the conclusions reached in D.02-07-032 are defective, and in

¹ D.02-07-032, at p. 21. A negative credit is the net amount that SCE would owe a customer during a particular billing cycle. This anomaly of paying customers to take service resulted from the DA credit exceeding the entire amount of a customer's bill as determined under the frozen rates.

particular, that the Commission's rejection of the fact that DA customers made equivalent contributions, on a per kWh basis, to SCE's procurement cost undercollections is wrong. SCE has provided an analysis that calculates the contribution that the current DA customers made to SCE's past procurement cost undercollections that directly addresses our request for additional record evidence. This analysis is based on a customer-by-customer evaluation, and finds that the appropriate balance to collect from DA customers, consistent with the methodology adopted in D.02-07-032, is \$493 million.

TURN support SCE. TURN argues that all customers, both bundled and DA, contributed equally to the revenue shortfall, and all should pay equally.

The California Manufacturers & Technology Association (CMTA) and the California Large Energy Consumers Association (CLECA) oppose SCE's petition. They argue that SCE's attempt to increase the HPC by \$102 million fails to set forth any new facts or circumstances necessary to justify modification of the original decision and, in fact, raises more questions than it answers. They say that both in the initial and current phases of this proceeding, SCE has repeatedly failed to justify the amounts it seeks to recover via the HPC.

Public hearing was held and the matter submitted.

II. SCE's Evidence

SCE's witness testified he performed a detailed analysis to determine how much each DA customer contributed to SCE's past procurement cost undercollections. He said the use of individual customer calculations avoids having to rely on indirect measures such as the credit bills SCE paid to the energy service providers (ESPs), as was done in D.02-07-032.

SCE conducted two independent analyses. For the first analysis, SCE identified all of its customers who were DA on July 24, 2002. This date was

selected because it was the most recent date of available data and is virtually identical to the date the HPC was implemented pursuant to D.02-07-032. SCE used this list of customers to obtain the recorded information from the customers' bills. The information included:

- a) Account Id (the identification number for the customer)
- b) Account status (Bundled Service or Direct Access)
- c) Billing date (date when customer was billed)
- d) KWh (total kWh for the billing period)
- e) Generation revenue (revenue due to generation charges)
- f) Bill limiter (amount of bill limiter for the I-6 customers)
- g) I-6 credits (amount of interruptible discount the I-6 customers receive)
- h) CTC revenue (revenue due to CTC – reported for Direct Access customers only)
- i) Direct Access credit (credit amount – reported for Direct Access customers only)
- j) Total bill (sum of all charges, excluding taxes and PUC refund fee).

The data selected was for a sixteen month period beginning May 1, 2000 and ending August 31, 2001. May 1, 2000 is the beginning of the period when SCE's procurement related costs began to exceed its generation related revenues under the frozen rates and ratemaking framework of Assembly Bill 1890. August 31, 2001 is the date when the starting balance for PROACT was established. In addition to this customer-specific information, SCE obtained the historical energy procurement costs for the same recorded period. Historical energy costs were based on the Power Exchange (PX) prices until January 17, 2001, when SCE was no longer able to procure from the PX. For the post-PX period, SCE used the energy cost accounting (ECA) calculations that

were used to determine DA credits after the demise of the PX, and which were reflected in SCE's proposed schedule Procured Energy (PE). The historical energy procurement cost was used to derive generation related costs by multiplying the energy cost, in average cents per kWh, by the total recorded kWh usage for each customer. This calculation takes into consideration that each customer account may be on different tariffs.

After the generation cost was determined, a shortfall amount was calculated for the bundled service customers and was defined as the generation cost minus the generation revenue minus the interruptible credit and interruptible bill limiter credits.² Adjustment was made on individual customer bills for the interruptible credit and the interruptible bill limiter credit, which serve to lower the customer's bill, since the cost of these credits is included in SCE's retail rates. The adjustment has the effect of increasing the generation related revenues for a customer with either of these credits. The shortfall amount for DA customers was defined as the negative CTC appearing on those customers' bill adjusted for the interruptible and bill limiter credits. The effect of these calculations is to identify by how much the cost of procuring energy for a bundled service customer, or the equivalent cost of providing DA credits for a

² More accurately, this calculation was done for the time that any of the current DA customers received bundled service, if they were not continuously DA during the entire 16-month period.

DA customer, exceeded the effective generation related revenues, where effective generation related revenues are defined as generation related revenues adjusted for the interruptible and bill limiter credits.

The results of this analysis are shown in Table 1, labeled as “Shortfall Caused by Current DA Customers.”

Table 1
Shortfall Caused by Current DA Customers

| | MWh | Generation Revenue (\$M) | Generation Cost (\$M) | Total Bill (\$M) | I-6 Credits (\$) | Shortfall (\$M) |
|---------------------------------|------------|--------------------------------|-----------------------------|---------------------|---------------------|--------------------|
| | | | | | | |
| Bundled Service ³ | 10,713,334 | \$737,299 | \$1,445,092 | \$960,227 | (\$46,883) | (\$660,910) |
| Direct Access ⁴ | 4,420,233 | \$279,127 | \$600,266 | (\$237,227) | (\$16,589) | \$304,550 |
| | | | | | | |
| Total | 15,133,567 | \$1,016,426 | \$2,045,358 | \$723,000 | (\$63,472) | \$965,460 |

³ This row shows the relevant data for current DA customers while they were on bundled service during the period of May 2000 to August 2001.

⁴ This row shows the relevant data for current DA customers for the period of time between May 2000 and August 2001, during which they received DA service. The \$600,266,000 shown as the “Generation Cost” reflects the credit that was provided to these DA customers while they received DA service.

For the second analysis, SCE compiled a table with recorded information for all of SCE's accounts. This information is aggregate in nature and included the following information:

- a) Customer group (Bundled Service or Direct Access)
- b) Customer rate group (any of SCE's 13 rate groups)
- c) Date (date of month when information is reported)
- d) KWh (total kWh for the reported month)
- e) Generation revenue (revenue due to generation charges)
- f) Bill limiter (amount of bill limiter for the I-6 customers)
- g) I-6 credits (amount of interruptible discount the I-6 customers receive)
- h) Direct Access credit (credit amount – reported for Direct Access customers only)
- i) Total bill (sum of all charges, excluding taxes and PUC refund fee).

The period of data selected was the same sixteen-month period beginning May 1, 2000 and ending August 31, 2001. Consistent with the first analysis, generation cost and revenue were calculated in the same manner. The shortfall amount for the bundled service customers was defined as the generation cost minus the generation revenue minus the interruptible and bill limiter credits. The shortfall amount for the DA customers was defined as the difference between generation revenue and the DA credits, adjusting again for the impact of interruptible and bill limiter credits. SCE has labeled

this analysis “Total Liabilities” in the results shown in Table II: (Revised)

Table II
Total Liabilities

| | MWh | Generation Revenue (\$M) | Generation Cost (\$M) | I-6 Credits (\$M) | Shortfall (\$M) |
|--------------------|-------------|-----------------------------|--------------------------|----------------------|--------------------|
| | | | | | |
| Bundled Service | 102,814,056 | \$7,484,748 | \$14,204,184 | (\$168,880) | \$6,550,556 |
| Direct Access | 7,581,456 | \$458,346 | \$949,872 | (\$37,380) | \$454,146 |
| | | | | | |
| Total | 110,395,512 | \$7,943,094 | \$15,154,056 | (\$206,260) | \$7,004,702 |

In general, SCE applied the same methodology for both analyses with the biggest difference being that the “Shortfall Caused by Current DA Customers” analysis uses an individual list of customer accounts, about 44,000 accounts, that are reported every month for a total number of about 700,000 records, while the “Total Liabilities” analysis uses summarized data, with only 16 records each representing the monthly system activity, one for each of the sixteen months.

III. Summary of Results

The witness testified that based on the results of the analyze, the percent of kWh attributable to DA customers was calculated as “Current DA Customers’ MWh” divided by “Total System MWh.”

$$15,133,567 / 110,395,512 = 13.7\%$$

SCE next calculated the percentage of the shortfall attributable to DA customers as “Shortfall Caused by Current DA Customers” divided by “Total Liabilities.”

$$\$965,460 / \$6,947,405 = 13.9\%^5$$

Finally, SCE calculated the “PROACT Obligation of DA Customers” as the PROACT account balance multiplied by the percent of shortfall attributable to DA customers.

$$\$3,577.0\text{m}^2 \times 13.9\% = \$496.8\text{m}^2$$

For illustrative purposes, SCE also calculated the “Obligation of DA at 15% of the Load” as the PROACT obligation of DA Customers’ multiplied by 15% over the percent of kWh attributable to DA customers.

$$\$496.\text{m}^2 \times .150 / .137 = \$543.9\text{m}^2$$

Again for illustrative purposes, SCE calculated the rate, in cents/kWh, that would be needed to recover the DA obligation over a two-year period, assuming that the DA load was at 15%.

$$\begin{aligned} & (.139 \times \$3,577\text{m}^2 / 2) \\ & \text{-----} = 2.31\text{¢/kWh}^6 \\ & (.137 \times 78,580 \text{ gWh}) \end{aligned}$$

These final calculations are responsive to the discussion in D.02-07-032 that SCE’s originally proposed charge would be “expected to generate more that

⁵ This calculation shows that this set of DA customers using 13.7% of SCE’s total system kWhs over the period of May 1, 2000 to August 31, 2001 was responsible for 13.9% of SCE’s liabilities. This is precisely the one-to-one relationship that SCE relied upon in its original proposal in this proceeding to state that if DA customers represented 15% of SCE’s system sales, they should be responsible for 15% of the PROACT balance.

⁶ Again, this very close to the HPC of approximately 2.46 cents per kWh proposed by SCE considering the fact that the latter number includes the interest charges for amortization of the PROACT balance over the two years while the calculated 2.31 cents per kWh does not include the interest charges.

\$540 million.”⁷ SCE’s methodology originally proposed in A.98-07-003 was oriented toward calculating the HPC as a rate, not as a revenue requirement as adopted in D.02-07-032. The amount of revenue collected in HPC revenues under SCE’s proposal depended on the amount of DA load. Since SCE’s proposed HPC rate produced an equivalent contribution to PROACT by a DA customer as a similarly situated bundled service customer, it was not necessary to track individual customers.

In the witness’s opinion these final two calculations demonstrate that the methodology originally proposed by SCE in A.98-07-003 produces an equivalent result to the customer-by-customer analysis described here. The witness concluded that D.02-07-032 should be modified to adopt a PROACT balance responsibility for SCE’s current DA customers of \$493 million.

In his rebuttal testimony SCE’s witness agreed with CLECA’s witness that any contributions to the recovery of the PROACT balance made by current DA customers after September 1, 2001, while they took bundled service, should be subtracted from the \$493 million proposed by SCE. SCE’s witness estimated that this contribution is approximately \$20 million and agreed to reduce the HPC balance to \$473 million.

IV. CMTA and CLECA Evidence

The witnesses for CMTA and CLECA testified that SCE’s showing in this phase contains several significant errors, such as ignoring roughly \$20 million contributed by current DA customers while they received bundled services after September 1, 2001; that rather than identifying new sources of contributions to its

⁷ See D.02-07-032, p. 20.

past procurement-related liabilities, SCE has simply recalculated the negative credits using a different set of customers and a higher total liability figure (\$7.0 billion) than authorized by the settlement (\$6.3 billion). They said that SCE's methodology is inconsistent with both the settlement and the approach taken in D.02-11-011 with regard to the responsibility of DA customers for past DWR undercollection. They concluded that the portion of the PROACT balance attributable to customers who received direct access service during the period from May 2000 through August 2001 is no more than approximately \$454 million (using SCE's value of \$7.0 billion for total procurement-related liabilities) and approximately \$393 million (using the settlement balance of \$6.3 billion of total procurement-related liabilities).

The CMTA witness testified that SCE has not shown that its method for calculating the shortfall amounts attributable to DA customers is reliable. He said that SCE attempts to combine a "bottoms-up" approach with a "tops-down" approach to calculate DA customer responsibility for past shortfalls, but the two methods produce substantially different results which significantly undermines the credibility of SCE's calculation. He said that to derive the percentage of DA shortfall, SCE used a "bottoms-up" approach (both on a MWh and a dollar basis). (*See* Petition at 7 (Table I – Shortfall Caused by Current DA Customers).) But, to derive the total shortfall, SCE used a "tops-down" approach. (*See* Ex. 3 at 1 (Table II (Revised) Total Liabilities).) He concludes that because SCE does not show that the two methods it uses produce the same result for the total shortfall, the amount that SCE derives is of questionable reliability. His analysis shows that SCE's tops-down approach creates shortfall figures on a \$/MWh basis that are substantially different from its bottoms-up approach, particularly

for DA customers.⁸ He believes this large discrepancy calls into question the reliability of SCE's approach.

He summarized the results obtained by combining the "bottoms-up" and "tops-down" approaches as follows. SCE divides the total shortfall calculated for current DA customers (\$965,460M) resulting from its "bottoms-up" approach in Table I by a Total Liability amount of \$7,004,702 M from its "tops-down" analysis shown in Table II (Revised) to derive a percentage of 13.78 which it then multiplies by the PROACT balance of \$3,577,000 M to yield the amount of \$493 million. (Ex. 3 at 1-2.) Thus, whereas the "tops-down" approach in Table II (Revised) shows that the shortfall arising from DA customers amounted to only 6.5 percent of the total liability (\$454 MM divided by \$7,004 MM), SCE's "bottoms-up" analysis assigns 13.78 percent of the PROACT to DA customers. (Ex. 3 at 1-2.) The effect of using the Total Liabilities amount of \$7.0 billion is to inflate the amount of the shortfall (\$454 million) attributable to DA customers. If the \$7.0 billion in total liability was scaled back to the \$6.3 billion recognized in the federal settlement, the resulting shortfall amount attributable to DA customers would be reduced to approximately \$412 million. If DA customers are given a proportionate share of the \$300 million absorbed by SCE shareholders, the end result is an HPC revenue requirement of less than

⁸ Rather than producing comparable shortfall amounts (expressed in \$ per MWh) for both bundled and DA customers, CMTA Exhibit 9 shows substantially different results under the SCE methodology for those DA customers that have returned to bundled service. The shortfall attributable to these customers (\$47.32/ MWh) is substantially below the shortfalls calculated for both bundled and DA customers computed using either the "tops-down" or "bottoms-up" approaches (approximately \$60-65/MWh). Thus, combining the two approaches as SCE does yields anomalous results, in the witness's opinion.

\$395 million – very close to the amount adopted in the D.02-07-032. He recommend that D.02-07-032 not be modified.

V. TURN's Evidence

TURN believes that CMTA's witness has added little more than confusion to the discussion of DA responsibility. This proceeding is to determine the amount of the PROACT balance that should fairly be attributed to current DA customers for collection through the HPC. TURN's witness analyzed both SCE's testimony and CMTA/CLECA's and concluded that SCE's presentation was accurate. He said the 6.5% that CMTA has developed has nothing to do with the shortfall attributable to current DA customers. Rather, it represents the percentage of Edison's historical undercollection that can be traced to customers who were on DA during the past period when the undercollection was accruing. He said there is no particular relationship between the customers who were on DA in second half of 2000 (when most of the undercollection accrued) and the customers who are on DA today. CMTA ignores the fact that a customer who is on DA today may have been a bundled customer during the period when the undercollection accumulated. That customer should be responsible for the resulting shortfall, and the HPC would be the vehicle through which collection would occur. Customers should pay for the portion of the undercollection that can be attributed to their consumption during the crisis, regardless of whether they were bundled or DA at that time. Edison's proposal attempts to determine that amount. CMTA's calculations produce something entirely different – a lower number that has no real world significance.

TURN asserts that a major issue is the appropriate interest rate to apply to the adopted HPC balance. It proposes a rate of 1% per month, slightly less than the average rate of 1.19% per month at which actual interest costs have accrued

in the PROACT since its creation effective September 1, 2001. TURN argues that since the HPC is simply the DA portion of the overall PROACT, the two accounts should bear the same rate of interest, beginning on the same date – September 1, 2001. No party took exception to TURN's proposal.

TURN also recommends that the collection of the HPC be made explicitly subject to refund, in the event that the Settlement Agreement which is the source of the PROACT account is ultimately held to be unlawful by the courts. Both bundled and DA customers should receive refunds in that eventually.

VI. Discussion

SCE has not made a clear and convincing showing that the share of PROACT balance to be paid by current DA customers should be changed.

D.02-07-032 was an interim decision.⁹ In that decision we noted that the evidence presented was not all inclusive, and we invited the parties to present additional evidence. (D.02-07-032 at 21.)

In response to the invitation of D.02-07-032, SCE produced a detailed analysis of how much the cost of providing DA credits to DA customers exceeded the effective generation-related revenues (adjusted for interruptible and bill limiter credits) received from those customers. This analysis suggested that current DA customers were responsible for a total shortfall of \$493 million. SCE attempted to show the time periods for which the customer was either DA or a bundled service customer, the kWh used as a DA or bundled service customer, the generation and non-generation revenues billed as a DA or bundled service customer, the generation cost of serving the bundled service customer or

⁹ Ordering Paragraph 6 of D.02-07-032: "This is an Interim Order, subject to potential subsequent modification."

providing credits to the DA customer, and the shortfall associated with serving the bundled service customer or providing credits to the DA customer.

However, SCE's attempts to combine two methodologies in order to reach the \$493 million figure. In fact, SCE's own testimony shows that the higher dollar figure of the two methodologies for calculating direct access customers' shortfall, results in a DA liability of only equals approximately \$454 million. See Table II (Revised) from Jazayeri Rebuttal Testimony regarding SCE's Petition for Modification of Decision No. 02-07-032. But that shortfall calculation is overstated. As CMTA witness Beach points out, SCE uses a total shortfall amount of \$7,004 million. This amount is inconsistent with the \$6,355 million overall shortfall amount approved the CPUC/SCE Federal District Court settlement. CMTA is correct that DA customers should receive a proportional share of the difference between the total shortfall and the (lower) court-approved shortfall. Table II (Revised) shows that DA customers were responsible for 6.5% of the total shortfall; therefore DA customers should be responsible for 6.5% of the Court- approved shortfall. This results in a DA responsibility of \$412 million. SCE agrees that DA customer responsibility should be reduced by approximately \$20 million, thus reducing the total to \$392 million.

As \$392 million is not substantially different from the \$391 million figure adopted in D.02-07-032, we decline to modify our previous decision, and deny SCE's Petition.

TURN's proposed interest rate of 1% per month to be applied to the HPC balance is reasonable and will be adopted. Its request to make the HPC subject to refund is denied.

Findings of Fact

1. D.02-07-032 was an interim decision in which the Commission invited the parties to submit additional evidence on the amount of the PROACT balance which was the obligation of DA customers.

2. SCE presented additional evidence which it believes represents the amount of the PROACT balance which is the obligation of current DA customers. That amount is \$473 million.

3. SCE's methodology for determining the amount is not reasonable.

4. SCE testimony shows that direct access customers accrued a total liability of approximately \$454 million. After adjusting this number to take account of the CPUC/SCE October 2, 2001 Federal District Court Settlement and other factors, the total liability is reduced to approximately \$392 million.

5. A \$392 million liability is not significantly different than the \$391 million liability adopted on an interim basis in D.02-07-032.

6. The appropriate interest rate to apply to the adopted HPC balance is a rate of 1% per month, slightly less than the average rate of 1.19% per month at which actual interest costs have accrued in the PROACT since its creation effective September 1, 2001. Since the HPC is simply the DA portion of the overall PROACT, the two accounts should bear the same rate of interest, beginning on the same date – September 1, 2001.

7. CMTA/CLECA's approach is unreasonable. It ignores the large contribution current DA customers made to SCE's procurement-related liabilities while they took bundled service. CMTA/CLECA's argument that current DA customers should be allowed to shift the costs incurred on their behalf while they took bundled service during 2000 and 2001 (an undercollection of about

\$708 million) to current bundled service customers because they left the class of bundled service, has no merit.

Conclusion of Law

The HPC of \$391 million adopted on an interim basis in D.02-07-032 should not be revised.

O R D E R

IT IS ORDERED that:

1. SCE's Petition to Modify D.02-07-032 is denied. Decision (D.) 02-07-032 is final.

This order is effective today.

Dated _____, at San Francisco, California.

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Proposed Alternate Draft Decision of Commissioner Brown on all parties of record in this proceeding or their attorneys of record.

Dated August 21, 2003, at San Francisco, California.

/s/ VANA F. WHITE
Vana White

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.